



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT WARM SPRINGS RESOURCE AREA

15 East 500 North  
Fillmore, Utah 84631

RECEIVED  
MAY 14 1990

DIVISION OF  
OIL, GAS & MINING

May 11, 1990



IN REPLY REFER TO:

3800  
UT055

David L. Penny  
P.O. Box 312  
Beaver, Utah 84713

Dear Mr. Penny,

*no Miller 5027624*  
Your notice to conduct mining related operations on your claims, Africa No. 1 and 2, Black Spot 2, 3, 4, Empirical Jasper, Little Spot and Tina's Web in T. 24 S., R. 9 W., Sections 11, 14, and 27, has been received and accepted by this office. Your notice has been assigned case file number UT-055-90-08N. Please use this number in any future correspondence concerning this notice.

If you change your operation from what is described in your notice, please contact this office prior to the change. If your operations extend for more than one year, please advise this office of the status of your mining related activity on the anniversary date of your notice.

A copy of your notice has been sent to the Utah Division of Oil, Gas and Mining (DOGM); therefore, you will not have to file this notice with DOGM. However, reclamation under this notice is required to conform to the standards of the Utah Mined Land Reclamation Act. Also, all mining claimants and operators that plan to use, store, or divert water are required by Utah statute to notify the Utah Department of Water Resources at:

1636 West North Temple  
Salt Lake City, Utah 84180-1203

As required by 43 CFR 3809, Surface Management Regulations, reasonable measures must be taken to prevent unnecessary or undue degradation of public lands during your operations. Please notify this office upon completion of operations and reclamation, so an inspection may be conducted on the site.

It is our preliminary opinion that the obsidian which it is your intent to mine is a common variety material and as such is not subject to location under the general mining laws, but is only available for disposal through sale. This position is based upon the results of US vs. Mansfield, 35 IBLA 95 (1978) which held that obsidian is a common variety mineral because it occurs in almost limitless quantities. It is possible that uncommon varieties of obsidian exist. In McClarty v. Secretary of the Interior, 408 F.2d 907, 908 (9th Cir. 1969), the Court set standards to distinguish between common varieties and uncommon varieties:



1. there must be a comparison of the mineral deposit in question with other deposits of such minerals generally;
2. the mineral deposit in question must have a unique property;
3. the unique property must give the deposit a distinct and special value;
4. if the special value is for uses to which ordinary varieties of the mineral are put, the deposit must have some distinct and special value for such use; and
5. the distinct and special value must be reflected in the market place (or in reduced cost or overhead so that the profit to the claimant would be substantially more).

The material in which you are interested has a unique property - snowflake. This unique property may give this material special value. However, this material will be used in lapidary work, which is the same use to which other obsidian is put. Therefore, for this material to be uncommon variety, it must have substantially greater value than other obsidians. We have been unable to locate conclusive evidence that this is, in fact, the case.

Should a final determination by the Department of Interior be made that this material is, in fact, "common variety", you could be responsible to the United States for the value of this material, damage to the land, and the administrative costs of recovering such compensation.

Acceptance of your notice will not now, nor in the future, serve as a determination of the validity nor ownership of any mining claim included under your notice.

Thank you for submitting your notice. If you have any questions regarding this letter, please contact Phil Allard at (801) 743-6811.

Sincerely,

  
Sor Dave Henderson  
Area Manager

cc: D. Wayne Hedberg, UDOGM  
Jerry Reagan, Millard County Planning and Zoning



NOTICE OF INTENTION TO COMMENCE SMALL MINING OPERATIONS

The informational requirements of this form are based on provisions of the Mined Land Reclamation Act, Title 40-8, Utah Code Annotated 1953, as amended, and the General Rules as promulgated under the Utah Minerals Regulatory Program.

"Small Mining Operations" means mining operations which disturb five or less surface acres at any given time.

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Empireal Tazpo 57429

I. GENERAL INFORMATION (Rule R613-003-104)

1. Name of Claim/Mine: Black Spots 2,3+4, Little L Spot,  
Africa #1+2
2. Name of Operator/Applicant: David L. Penney  
Company ( ) Corporation ( ) Partnership ( ) Individual ( )
3. Permanent Address: Box 312  
City: Beaver State: Utah Zip Code: 84713  
Telephone Number: (801) 438-5522

BUREAU OF LAND MANAGEMENT Partnership of Land Surface:

RECEIVED

APR 26 1990

Private (Fee) ☐ Public Domain (BLM) ☒ National Forest (USFS) ☐

State of Utah ☐ Other: \_\_\_\_\_

5. Ownership of Minerals:

Warm Springs A.M. Private (Fee) ☐ Public Domain (BLM) ☒ National Forest (USFS) ☐

State of Utah ☐ Other: \_\_\_\_\_

House Range A.M. \_\_\_\_\_

Operations Division \_\_\_\_\_

FILE \_\_\_\_\_

New Road(s): Length None (ft) Width \_\_\_\_\_ (ft)

Total project surface acreage to be disturbed 5 (acres)



UMC 57429

Utah Mining Claim Number(s) UMC 331633 UMC 326873

Utah State Lease Number(s) \_\_\_\_\_

6. Have the above owners been notified in writing? Yes ☐ No ☐  
If no, why not? Same

7. Does the operator have legal right to enter and conduct mining operations on the land covered by this notice? Yes ☒ No ☐

II. PROJECT LOCATION & MAP (Rule R613-003-105)

1. Project Location:

County(ies):

Millard

1/4, 1/4:	<u>S.W.</u>	Section: <u>11</u>	Township: <u>24 S</u>	Range: <u>9 W</u>
1/4, 1/4:	<u>N.E.</u>	Section: <u>27</u>	Township: <u>24 S</u>	Range: <u>9 W</u>
1/4, 1/4:	<u>S.E.</u>	Section: <u>27</u>	Township: <u>24 S</u>	Range: <u>9 W</u>
	<u>N.W</u>	<u>14</u>	<u>24 S</u>	<u>9 W</u>

2. A topographic base map showing the location of the proposed small mining operation must be submitted with this notice. A USGS 7.5 minute series map is preferred. The areas to be disturbed should be plotted in sufficient detail so that they can be located on the ground. It is recommended that the operator also plot and label any previous disturbances in the immediate vicinity that he is not responsible for.

III. OPERATION PLAN (Rule R613-003-106)

1. Type of mining: Surface ☒ Underground ☐

2. Mineral(s) to be mined: Gem Grade SNOWS FLAKE

3. Provide a brief description of the proposed mining operation and onsite processing facilities. Small Back Hole Work

New Road(s): Length None (ft) Width \_\_\_\_\_ (ft)

Total project surface acreage to be disturbed 5 (acres)



IV. OPERATION AND RECLAMATION PRACTICES (Rule R613-003-107 & 108)

The reclamation and operation obligation is to keep the area clean and safe, minimize hazards to public safety, return the land to a useful condition, and reestablish at least 70 percent of the premining vegetative ground cover. To accomplish this, the operator will need to perform reclamation concurrently, or at the completion (within one (1) year) of mining:

1. Keep the mining operation in a safe, clean, and environmentally stable condition.
2. Permanently seal all shafts and tunnels to prevent unauthorized or accidental entry.
3. Plug drill holes with a five foot cement surface plug. Holes that encounter fluids are to be plugged in the subsurface to prevent aquifer contamination.
4. Construct berms, fences, or barriers, when needed, above highwalls and excavations.
5. Remove, isolate, or neutralize all toxic materials in a manner compatible with federal and state regulations.
6. Remove all waste or debris from stream channels.
7. Dispose of any trash, scrap metal, wood, machinery, and buildings.
8. Conduct mining activities so as to minimize erosion and control sediment.
9. Reclaim all roads that are not part of a permanent transportation system.
10. Stockpile topsoil and suitable overburden prior to mining.
11. Stabilize highwalls by backfilling or rounding to 45 degrees or less, where feasible; reshape the land to near its original contour, and redistribute the topsoil and suitable overburden.
12. Properly prepare seedbed to a depth of six inches by ripping, discing, or harrowing.
13. Reseed disturbed areas with adaptable species. (The Division recommends seeding 20 lbs./acre of native and introduced species of grass, forb, and browse seed, and will provide a specific species list if requested.)



- V. VARIANCE REQUEST (Rule R613-003-109)

Any planned deviations from Rules R613-003-107, Operation Practices, R613-003-108, Hole Plugging Requirements, or R613-003-109, Reclamation Practices, as summarized above, should be identified below and justification given for the variance request(s).

### Variance Request Justification

## VI. SIGNATURE REQUIREMENT

I hereby commit to the reclamation of the aforementioned exploration project as required by the Utah Mined Land Reclamation Act (40-8) and the rules as specified by the Board of Oil, Gas and Mining.

Signature of Operator/Applicant:

Name (typed or print):

Title/Position (if applicable):

Date:

David Kerney  
Operator  
April 25, 1990



# NOTICE OF LOCATION

NOTICE IS HEREBY GIVEN, that the undersigned located and now claim Fifteen Hundred (1500) feet in length along this vein or lode containing valuable minerals, together with Three Hundred (300) feet in width on each side of the middle of said vein at the surface, and all veins, lodes, mineral and surface ground within the lines of this claim, the general course of said vein or lode running 750 feet Northerly and 750 feet Southerly from the discovery monument on which this claim is posted. This claim is in the

Mining District \_\_\_\_\_  
County, State of Utah situated  
T. 24. S. R. 9. W. Sec 27 and  
14 T. 25. S. E. 14

and is marked on the ground as follows:  
Beginning 750 feet South of the discovery monument, at the South end center monument, and running thence West 300 feet to S.W. corner monument No. 1; thence North 1500 feet to N.W. corner monument No. 2; thence East 300 feet and parallel to the South end line to the North end center monument; thence East 300 feet and parallel to said end line to N.E. corner monument No. 3; thence South 1500 feet to S.E. corner monument No. 4; thence West 300 feet to place of beginning; including all dips, spurs, angles and variations  
Corner Monument #4 is  
900 feet North and 200 feet  
West of the S. E. corner  
of this Sec.

The above described mining claim is named  
Tina's Web  
Located this 23 day of March, 1990

**Note**

The land on which this claim is located is part of the public domain of the United States and is subject to the provisions of the Mining Laws of the United States.

**1. MINES OF STATE**

See also the following pages of the Mining Laws of the United States: 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

**NAMES OF LOCATORS**  
David L. Penney  
Tina Penney  
Lawrence Penney  
  
David L. Penney  
Box 312  
Hoover, Utah  
84405

Entry No. 75925 Book 233 Page 107  
Recorded Mar 30, 1990 Time 11:46 AM Fee \$7.00  
Request of David L. Penney  
LINDA S. CARTER MILLARD CO. RECORDER BY CV